

REMARKS

I. Claim Rejections - §112

Reconsideration is requested of the Examiner's rejection of Claims 2-16, 18-35 and 37-40 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner is unclear what the combination device is comprised of. Claim 38 and 39 are amended to clarify the combination device to comprise a "coupling member" and a "support member." Therefore, this rejection is now believed to be moot.

II. Claim Rejections - §102

Reconsideration is requested of the Examiner's rejection of Claims 2-3, 5, 9, 18, 19, 21, 25, 33-35, 37-40 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,869,154 to R.L. Sanchez. The Examiner relied on the Sanchez reference for disclosing all the elements of independent Claims 38 and 39.

It is submitted that the Examiner is reading more into the Sanchez reference than would be taught to one skilled in the art reading the Sanchez reference.

A claim is anticipated under 35 U.S.C. §102(b) only if "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Amended claim 38 discloses a combination device for positioning and securing at least one electrical wire-carrying conduit to a structure, comprising:

a coupling member adapted to receive one end of said conduit,
said coupling member comprising a tubular member having opposed axially aligned ends, each of said ends adapted to receive one end of said conduit, and said tubular member having a top surface and an aperture through said top surface; and

a supporting member for securing said coupling member to said structure above said coupling member, *said supporting member comprising a stem having a free end portion adapted to engage said conduit through said aperture,*

wherein said supporting member is positioned above said aperture on said top surface of said tubular member.

Similarly, amended claim 39 discloses a combination device for positioning and securing a pair of electrical wire-carrying conduits to a structure, comprising:

a coupling member adapted to receive said conduits,

said coupling member comprising an integral tubular member having a generally cylindrical wall surrounding an interior space and opposed axially aligned ends, each of said ends adapted to receive one end of one of said pair of conduits, and said tubular member having an aperture through said cylindrical wall into said interior space; and

a supporting member for securing said coupling member to said structure adjacent said coupling member, *said supporting member comprising a stem having a free end portion engaging said aperture to support said tubular member and is positioned in said interior space of said tubular member sufficient to engage said ends of said conduits received through said opposite ends of said tubular member.*

The Sanchez reference fails to disclose, at least, the above elements shown in ***bold and italics***. The clear teaching of the Sanchez reference is that the hole 20 of the Sanchez device is to receive a tubular fluid carrying member 23 for connection with pipe coupling 11 such that a flow can be achieved from the tubular member 23 to the pipe coupling 11. Col. 3, lines 21-28. The purpose and construction of the Sanchez device is for water pipes that can readily receive additional pipes. Hence, the teaching of this reference differs significantly from the present invention, which provides “a supporting member comprises a stem having a free end portion adapted to engage said conduit.” Claim 38 (emphasis added). The stem of the present invention is not for achieving a flow between the stem (which is non-tubular) and the coupling member, but for engaging at least one conduit. There is no disclosure, teaching or suggestion in the Sanchez reference that the hole 20 of the Sanchez device is for supporting the coupling member and engaging the conduit received within the coupling member. The hole 20 could be at any position – side, bottom, or top, since the location is not material as it is with Applicant’s

invention. Similarly, there is no disclosure, teaching or suggestion in the Sanchez reference that the hole 20 of the Sanchez reference allows the free end of the stem of the supporting member to be positioned in the interior space to engage the ends of the conduits. Claim 39. Therefore, the Sanchez reference fails to teach “each and every element” of amended claims 38 and 39 and all claims dependent therefrom, as required under a §102(b) rejection. Hence, claims 2-16, 18-35, and 37-40 are not anticipated by the Sanchez reference.

The Examiner indicated that some of the above arguments previously presented were not given any patentable weight because the recitation occurs in the preamble. The recitations are now positively claimed as part of the combination device and therefore the claims appear to be patentable over the Sanchez reference.

III. Conclusion

By virtue of the Applicant’s amendment to the claims and remarks thereto, all outstanding grounds of rejection and objection have been addressed and dealt with and, based thereon, it is believed that the application is now in condition for allowance and such action is respectfully solicited.

Respectfully submitted,



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